

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Sep 11, 2018

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CLINTON KENNEDY,

Plaintiff,

v.

S. PATZKOWSKI, L. ROBERTS, T.
MINK, R. GONZALES, T. SNYDER,
J. AIYEKU, F. IVEY, A –
GONZALES, D. HOLBROOK, S.
SUNDBURG, C. SCHETTLER, D.
CALDWELL, ALISA RIDENAUR,
DONNA L. HUBBS, M. ROMINE, S.
MUECKE, and D. BAKER,

Defendants.

No. 4:18-CV-05028-SMJ

**ORDER DISMISSING
COMPLAINT**

28 U.S.C. § 1915(g)

By Order filed April 26, 2018, the Court advised Plaintiff Clinton Kennedy, a *pro se* prisoner proceeding *in forma pauperis*, of the deficiencies in his civil rights complaint and directed him to amend or voluntarily dismiss it. ECF No. 31. On May 25, 2018, a two-page document purporting to be an amended complaint and unsigned by Plaintiff was presented to the Court. ECF No. 44. On July 5, 2018, the Court struck this document, along with others, and granted Plaintiff additional time to comply with the Order to amend or voluntarily dismiss his

1 complaint. ECF No. 53. Plaintiff did not comply and has filed nothing further in
2 this action.

3 In his complaint, Plaintiff fails to set forth facts demonstrating how each of
4 the named Defendants caused or personally participated in depriving Plaintiff his
5 constitutionally protected rights. *See Arnold v. IBM*, 637 F.2d 1350, 1355 (9th Cir.
6 1981); *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989). Plaintiff was instructed
7 to limit his allegations to those facts that showed a violation of his own
8 constitutionally protected rights, as it is improper to bring claims on behalf of
9 others. *See C.E. Pope Equity Tr. v. United States*, 818 F.2d 696, 697 (9th Cir.
10 1987).

11 Plaintiff's conclusory assertion that a laundry list of Defendants denied him
12 books and Satanic information fails to state a plausible claim for relief. *See Bell*
13 *Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). He does not state when he
14 requested particular items, who denied or rejected them, or the basis for any
15 rejection. He does not state how the inability to access these items substantially
16 burdened his faith or unreasonably prevented him from engaging in conduct he
17 believed was consistent with his faith. *Shakur v. Schriro*, 514 F.3d 878, 884–85
18 (9th Cir. 2008). Plaintiff does not present facts from which the Court can infer
19 intentional discrimination. *See City of Cleburne v. Cleburne Living Ctr., Inc.*, 473
20 U.S. 432 (1985); *Shakur*, 514 F.3d at 891.

1 Although given the opportunity to do so, Plaintiff did not amend his
2 complaint to state a claim upon which the Court may grant him relief.

3 Accordingly, **IT IS HEREBY ORDERED:**

4 **1.** All claims are **DISMISSED WITH PREJUDICE** under 28 U.S.C.
5 §§ 1915(e)(2) and 1915A(b)(1), with all parties to bear their own costs
6 and attorneys' fees.

7 **2.** Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner
8 who brings three or more civil actions or appeals that are dismissed as
9 frivolous, malicious, or for failure to state a claim will be precluded
10 from bringing any other civil action or appeal *in forma pauperis*
11 “unless the prisoner is under imminent danger of serious physical
12 injury.” 28 U.S.C. § 1915(g). Plaintiff is advised to read the
13 statutory provisions under 28 U.S.C. § 1915. This dismissal of
14 Plaintiff’s complaint may count as one of the three dismissals
15 allowed by 28 U.S.C. § 1915(g) and may adversely affect his
16 ability to file future claims.

17 **3.** All pending motions are **DENIED AS MOOT.**

18 **4.** All hearings and other deadlines are **STRICKEN.**


19 **5.** The Clerk’s Office is directed to enter **JUDGMENT FOR**
20 **DEFENDANTS** and **CLOSE** this file.

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6. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this Order would not be taken in good faith and would lack any arguable basis in law or fact.

IT IS SO ORDERED. The Clerk’s Office is directed to enter this Order and provide copies to Plaintiff and the Washington State Attorney General’s Office, Corrections Division.

DATED this 11th day of September 2018.



SALVADOR MENDOZA, JR.
United States District Judge